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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,461	02/26/2008	Jee Loon Look	AM101358	2119
25291	7590	04/15/2010	EXAMINER	
WYETH LLC PATENT LAW GROUP 5 GIRALDA FARMS MADISON, NJ 07940			HILL, MYRON G	
			ART UNIT	PAPER NUMBER
			1648	
			NOTIFICATION DATE	DELIVERY MODE
			04/15/2010	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

-IPGSMadisonDocketing@pfizer.com

### Office Action Summary

**Application No.**

10/582,461

**Applicant(s)**

LOOK ET AL.

**Examiner**

MYRON G. HILL

**Art Unit**

1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) See Continuation Sheet are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ ~~Notice of Informal Patent Application~~
- 6) ☐ Other: \_\_\_\_\_

Continuation of Disposition of Claims: Claims pending in the application are 1,3,5,6,8,11,13,18,22-25,30,33,35,41-43,46,48-50,54,55,60-63,86,105 and 122-124.

Continuation of Disposition of Claims: Claims subject to restriction and/or election requirement are 1,3,5,6,8,11,13,18,22-25,30,33,35,41-43,46,48-50,54,55,60-63,86,105 and 122-124.

## **DETAILED ACTION**

### ***Election/Restrictions***

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1,3,5,6, 8, 11,13, 18, 22-25, 30, 33, 35,41 and 42, drawn to a method of freezing and lyophilizing RSV or PIV.

Group II, claim(s) 43, 46, 48-50, 54, 55, drawn to freezing RSV or PIV in a device.

Group III, claim(s) 60 and 61, drawn to an RSV or PIV solution.

Group IV, claim(s) 62, drawn to an RSV or PIV solution in a device.

Group V, claim(s) 63 and 86, drawn to a method of lyophilizing CMV etc.

Group VI, claim(s) 105, drawn to a method of freezing CMV etc in a device.

Group VII, claim(s) 122-124, drawn to a CMV etc solution.

The groups of inventions listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

Group I is directed to an a method to lyophilize RSV or PIV, which is the first method.

However, because Truong-Le et al. (WO 03/086443 from IDS) teaches freezing and lyophilizing and solution containing RSV (see at least paragraphs 11, 12, and 20), no special technical feature exists for Group I as defined by PCT Rule 13.2, because it

does not define a contribution over the prior art. The technical features of Groups II-IVII are drawn to methods having different goals, method steps and starting materials, which do not require each other for their practice and do not share the same or a corresponding technical feature. Group II does not require lyophilization. Group III and IV do not require lyophilized RSV or PIV. Groups V-VII do not require RSV or PIV. Note that PCT Rule 13 does not provide for multiple products or methods within a single application. Because the technical feature of Group I is not a special technical feature, and because the technical features of the Group II-IX inventions are not present in the Group I claims, unity of invention is lacking

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If

claims are added after the election, applicant must indicate which of these claims are readable on the elected invention or species.

Should applicant traverse on the ground that the inventions have unity of invention (37 CFR 1.475(a)), applicant must provide reasons in support thereof. Applicant may submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. Where such evidence or admission is provided by applicant, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MYRON G. HILL whose telephone number is (571)272-0901. The examiner can normally be reached on M-Th and flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Helms can be reached on 571-272-0832. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mary E Mosher/  
Primary Examiner, Art Unit 1648

/M. G. H./  
Examiner, Art Unit 1648